

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED
APR 17 2007
Federal Communications Commission
Office of the Secretary

In the Matter of)	EB Docket No. 07-13
)	
DAVID L. TITUS)	FRN No. 0002074797
)	File No. EB-06-IH-5048
Amateur Radio Operator and Licensee of)	
Amateur Radio Station KB7ILD)	
To: Richard L. Sippel		
Chief Administrative Law Judge		

ENFORCEMENT BUREAU'S
MOTION TO COMPEL ANSWERS TO INTEROCATORIES

1. On March 9, 2007, the Enforcement Bureau served interrogatories on David L Titus ("Titus"). On April 4, 2007, Titus transmitted via e-mail his answers and objections to the Bureau ("Response"). For the reasons that follow, Titus' response is procedurally defective and substantively unresponsive, evasive, and/or incomplete. Consequently, pursuant to Section 1.323 of the Commission's Rules, the Bureau requests the Presiding Judge to issue an order compelling Titus to answer each and every interrogatory, as described below.

2. This case was designated for hearing on January 30, 2007.¹ Thereafter, the FCC's Chief Administrative Law Judge issued an order appointing himself as the presiding judge, setting a date for a prehearing conference, and, notably, placing all

¹ David L. Titus, Order to Show Cause, DA 07-377 (EB, released January 30, 2007).

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parties on notice of their obligations to comply with the Commission's procedural rules as they apply in Part I to adjudicatory hearings.' Thereafter, at a prehearing conference held on March 27, 2007, Titus' counsel was informed again, on the record, of his obligations to comply with Part I of the Commission's Rules, particularly those requiring that pleadings be properly served, tiled, and captioned.³

3. In the instant case, Titus has simply ignored such procedures, rendering his answers and objections procedurally defective. First, Titus's pleading lacks proof of service, as required by Section 1.211 of the Commission's Rules. In addition, there is no indication that the pleading and the requisite number of copies were tiled with the Secretary of the Commission, as required by Section 1.323(a) of the Commission's Rules. Furthermore, there is no showing that the pleading was served on the Presiding Judge, also as required by Section 1.323(a) of the Commission's Rules.

4. The Bureau appreciates that Titus and his counsel are located in the Seattle area and may not have been entirely familiar at the outset of this proceeding with the Commission's procedural rules. However, as noted above, this case was set for hearing more than two months ago, and, since that time, Titus has twice been advised to comply with Part I of the Commission's Rules, the first time by the Chief Judge in his initial Order and a second time at the prehearing conference. The Presiding Judge should not tolerate Titus' apparent refusal to comply with fundamental procedural obligations,

² David L. Titus, Order, FCC 07M-OX (ALJ, released March 5, 2007)

³ See, e.g., TR. 14-15.

particularly after Titus has twice been placed on notice to be cognizant of the requirements contained in Part I of the Commission's Rules.

5. Furthermore, as shown below, Titus' responsive pleading contains incomplete answers to most of the interrogatories that he attempted to answer. The Presiding Judge should direct Titus to answer each of the following interrogatories fully and completely unless he interposes a legitimate, good faith objection:

INTERROGATORY NO. 1: This interrogatory requests Titus to describe fully his educational background. Titus specifically objects to this particular interrogatory on the basis of each and every one of his so-called General Objections.⁴ Titus thus objects to this particular interrogatory on the basis that: (a) the instructions for it seek information which is "protected from discovery under the attorney-client privilege and work product doctrine, as well as information which is not reasonably calculated to lead to the discovery of relevant or admissible evidence." Response, p. 1; (b) it seeks "information which confidential and sensitive." Response, p. 1; and (c) it is "unduly burdensome and designed merely to harass or burden him into spending undue time and expense" in answering it. Response, p. 2.

The Bureau submits that Titus' bare, unsupported objections as to this interrogatory are without merit. Titus does not explain how the attorney-client privilege or work product doctrine are invoked by an interrogatory which seeks information about his educational background. If Titus has withheld information in his response to this interrogatory on the

⁴ **Titus** states that each and every **one** of his answers are made "without waiver of, and subject to, [his] General Objections, and as if these General Objections has been restated therein." Response, p. 2.

basis of a privilege, he should be required to specifically so state. Similarly, Titus does not explain how this interrogatory seeks information that could even arguably be characterized as confidential or sensitive. There is nothing confidential or sensitive about his educational background. Furthermore, Titus' claim that this interrogatory is unduly burdensome is entirely unsubstantiated. There is absolutely nothing burdensome about having to describe his educational background. Finally, Titus' baseless accusation that the Bureau is engaged in discovery for the deliberate purpose of harassing any party is absurd, and merely reflects Titus's unwillingness to cooperate in this license revocation proceeding. Clearly, information about Titus' educational background is a legitimate subject in which to inquire, and Titus' claim to the contrary is meritless.

Although Titus purports to answer this interrogatory, it is incomplete because it does not "fully describe" his educational background. For example, Titus does not identify by name, location or dates of attendance the various "Washington-area community colleges" that he attended or the classes that he took at these institutions. Similarly, Titus does not identify the name, location or dates of attendance of the "local vocational school" that he attended during his teen years. Finally, Titus fails to identify his "past employers" or the dates when he took computer-related courses. Titus should be required to provide this information.

INTERROGATORY NO. 2: This interrogatory seeks information about Titus' employment history. Titus specifically objects to this particular interrogatory on the

basis of each and every one of his General Objections described in the discussion of Interrogatory No. 1, above.

The Bureau submits that Titus' bare, unsupported objections as to this interrogatory are without merit. Titus does not explain how the attorney-client privilege or work product doctrine are invoked by an interrogatory which seeks information about his employment history. If Titus has withheld information based on a privilege he should be required to specifically so state. Similarly, Titus does not explain how this interrogatory seeks information that could even arguably be characterized as confidential or sensitive. Titus, of course, makes no specific claim that his work required some sort of government security clearance or affected national security. Furthermore, Titus' claim that this interrogatory is unduly burdensome is entirely bogus. There is absolutely nothing burdensome about having to describe his employment history. In any case, Titus again makes no claim that, for instance, his list of jobs is so lengthy that the task of responding would be unreasonably arduous. Finally, Titus' baseless accusation that the Bureau interposed this interrogatory for the deliberate purpose of harassing Titus is totally without justification. Titus should be admonished to refrain from engaging in inflammatory rhetoric in responding to legitimate discovery requests. Clearly, information about Titus' employment history is a legitimate subject in which to inquire, and Titus claim to the contrary is meritless.

Although Titus purports to answer this interrogatory, it is incomplete because it does not provide information about his current employment, which began in August 2006. Titus

suggests that disclosing information to the Bureau about his current employment could jeopardize his job because his employer might learn about his criminal background. However, Titus' felony criminal conviction for communicating with a minor and the relatively recent (2004) upgrade of his status from a Level 2 Sex Offender to a more serious Level 3 Sex Offender are already matters of public record. Finally, Titus' character qualifications have directly and inextricably been placed in issue in this case. Information about his current employment, duties, responsibilities, etc., are unquestionably the types of information which could lead to the discovery of admissible evidence and assist the Presiding Judge in rendering a fair and reasoned decision in this case. Consequently, Titus should be ordered to provide a full and complete response to this interrogatory by providing information, as requested, about his entire employment history since January 1, 1997, particularly his present employment, which Titus has represented began in August 2006.

INTERROGATORY NO. 3: This interrogatory seeks information about Titus' involvement as a principal in any businesses or business ventures. Although Titus responded in the negative, he nonetheless objected to this particular interrogatory by specific reference to all of his General Objections, as described in response to Interrogatory No. 1, above.

The Bureau submits that Titus' bare, unsupported objections as to this interrogatory are without merit. Titus does not explain how the attorney-client privilege or work product doctrine are invoked by an interrogatory which seeks information about his participation

as a principal in any business. If Titus has withheld information in answering this interrogatory based on a privilege he should be required to specifically so state. Similarly, Titus does not explain how this interrogatory seeks information that could even arguably be characterized as confidential or sensitive. Furthermore, Titus' claim that this interrogatory is unduly burdensome is entirely false. Finally, there is no justification for Titus' inflammatory claim that the Bureau has interposed this interrogatory for the purpose of harassing him.

INTERROGATORY NO. 4: This interrogatory seeks information about Titus' criminal history. Although Titus responded to this interrogatory, he nonetheless objected to it again by reference to all of his General Objections, as described in response to Interrogatory No. 1, above.

The Bureau submits that Titus' specific objections are without justification. A plain reading of the interrogatory reveals that it does not seek any information that could arguably be characterized as privileged, confidential or sensitive. However, if Titus is withholding information in his answer to this interrogatory on the basis of such claims, he should so state. Furthermore, Titus' claim that this interrogatory is unduly burdensome is unfounded. Titus' criminal history, while serious indeed, is not so lengthy that providing information about each offense is burdensome. Finally, there is no justification for Titus' inflammatory claim that the Bureau has interposed this interrogatory for the purpose of harassing him. The very reason why Titus is involved in this license revocation hearing is because of his criminal misconduct. That Titus should accuse the Bureau of harassing

him because it has asked him in an interrogatory for information about his convictions is simply incredible.

INTERROGATORY NO. 5: This interrogatory seeks information about when Titus became a Commission licensee. Although Titus responded to this interrogatory, he nonetheless objected to it, as he did to each and every one of the Bureau's other interrogatories. by reference to all of his General Objections, as described in response to Interrogatory No. 1, above.

The Bureau submits that Titus' objections are without justification. There is nothing privileged, confidential or sensitive about revealing when Titus became a Commission licensee. If in fact Titus has withheld information in his response to this interrogatory on the basis of such claim, he should be compelled to so state. Requiring Titus to disclose this information is not burdensome in any way, shape or form, **and** there is no basis whatsoever for Titus claim that seeking such information constitutes an act of harassment by the Bureau.

INTERROGATORY NO. 6: This interrogatory seeks information about the FCC licenses that Titus holds or has held or in which he has or has had an interest. Although Titus answered this interrogatory, he nonetheless objected to it, once again, by specific reference to all of his General Objections, as described in response to Interrogatory No. 1, above.

The Bureau submits that Titus' objections as to this interrogatory are without justification. There is nothing privileged, confidential or sensitive about revealing the call sign and service of each of Titus' licenses. Requiring such information is not burdensome, and it certainly does not constitute harassment for the Bureau to have requested such information.

INTERROGATORY NO. 7: The Bureau apparently served this interrogatory on Titus inadvertently because it is identical for all intents and purposes to the information sought in Interrogatory No. 6.

INTERROGATORY NO. 8: This interrogatory **seeks** information about Titus' FCC-related misconduct. Although Titus answered this interrogatory, he nonetheless objected to it, once again, by specific reference to all of his General Objections, as described in response to Interrogatory No. 1, above.

The Bureau submits that Titus' objections as to this interrogatory are without justification. There is nothing privileged, confidential or sensitive about revealing information to the Bureau about Titus' FCC-related misconduct. However, if Titus has withheld information in answering this interrogatory on the basis of such claims, he should be required by the Presiding Judge to so specifically so state. Requiring information about his FCC-related misconduct is not burdensome, **and** it certainly does not constitute harassment for the Bureau to have requested such information. Information

about Titus' FCC-related misconduct clearly is relevant in a proceeding in which his basic character qualifications are in issue.

INTERROGATORY NO. 9: This interrogatory seeks information about Titus' involvement in amateur radio clubs and/or organizations. Titus specifically objects to this particular interrogatory on the basis of each and every one of his General Objections, as described in response to Interrogatory No. 1, above.

The Bureau submits that Titus' bare, unsupported objections as to this interrogatory are without merit. Titus does not explain how the attorney-client privilege or work product doctrine are invoked by an interrogatory which **seeks** information about his participation in amateur radio clubs or organizations. If Titus has withheld information based on a privilege he should be required to specifically so state. Similarly, Titus does not explain how this interrogatory seeks information that could even arguably be characterized as confidential or sensitive. Furthermore, Titus' claim that this interrogatory is unduly burdensome lacks merit. There is absolutely nothing burdensome about having to describe his participation in amateur radio clubs or organizations. Finally, there is no basis to Titus' assertion that the Bureau interposed this particular interrogatory to harass him. Information about Titus' involvement in ham radio clubs and organizations is reasonably calculated to lead to the discovery of admissible evidence, and Titus' claim to the contrary is unfounded.

Although Titus purports to answer this interrogatory, it is incomplete and/or evasive because it does not provide identifying information about any individuals referenced in his answer. The directions to the Bureau's interrogatories state that the term "identify," when used with reference to a person or persons, means to state his or her full name; last known business and residence addresses; and last known business and residence telephone numbers. In his answer, Titus names several individuals who presided over clubs or organizations in which he has been involved. However, Titus fails to "identify" each person, as set forth in the instructions to the Bureau's interrogatories. The information that these individuals may have could lead to the discovery of admissible evidence, and Titus' failure to properly "identify" each one hampers the Bureau's efforts to prosecute its case. The Presiding Judge should compel Titus to properly "identify" each individual referenced in his answer to this interrogatory.

INTERROGATORY NO. 10: This interrogatory seeks information about the nature and extent of Titus' on-air activities in the amateur radio service. Titus specifically objects to this particular interrogatory on the basis of each and every one of his General Objections, as described in response to Interrogatory No. I, above.

The Bureau submits that Titus' objections as to this interrogatory are without merit. Titus does not explain how the attorney-client privilege or work product doctrine are invoked by an interrogatory which seeks information about his on-air activities as a ham radio operator. If Titus has withheld information based on a privilege he should be required to specifically so state. Similarly, Titus does not explain how this interrogatory

seeks information that could even arguably be characterized as confidential or sensitive. Furthermore, Titus' claim that this interrogatory is unduly burdensome lacks merit. The interrogatory seeks information about, for example, the frequencies on which Titus generally operates, whether he transmits locally or internationally, whether he provides emergency services, and whether he transmits infrequently, daily, weekly, etc. None of this information is unduly burdensome for Titus to provide. There also is no basis to Titus' assertion that the Bureau interposed this particular interrogatory to harass him. Information about Titus' on-air activities is reasonably calculated to lead to the discovery of admissible evidence because it could disclose information about the extent to which Titus, who has relatively recently been elevated from a Level 2 Sex Offender to the more serious Level 3 Sex Offender by law enforcement officials, may use his amateur radio license to engage in conversations with, and attempt to entice, youngsters into unlawful activities.

Although Titus provides an answer this interrogatory, it is incomplete because, for example it references that Titus has an "understanding with a local government agency," but does not fully articulate the nature of the understanding or identify the specific local government agency involved. The Presiding Judge should require Titus to provide this information.

INTERROGATORY NO. 11: This interrogatory seeks information about any aliases that Titus may have used on-air. Although Titus answered this interrogatory in the

negative, he nonetheless objected to it, once again, by specific reference to all of his General Objections, as described in response to Interrogatory No. 1, above

The Bureau submits that Titus' objections as to this interrogatory are without justification. There is nothing privileged, confidential or sensitive about revealing whether he has used an alias on the air. Requiring such information is not burdensome and it certainly does not constitute harassment for the Bureau to have requested such information.

INTERROGATORY NO. 12: This interrogatory seeks information about Titus' on-air communications with minors. Titus specifically objects to this particular interrogatory on the basis of each and every one of his General Objections, as described in response to Interrogatory No. 1, above. In addition, Titus alleges that the information sought violates his privacy rights.

The Bureau submits that Titus' objections as to this interrogatory are without merit. Titus does not explain how the attorney-client privilege or work product doctrine are invoked by an interrogatory which seeks information about his on-air conversations with youngsters. If Titus has withheld information in answering this interrogatory based on a claim of privilege he should be required to specifically so state. Similarly, Titus does not attempt to explain how this interrogatory seeks information that could even arguably be characterized as confidential, sensitive, or an invasion of his privacy. Furthermore, Titus' claim that this interrogatory is unduly burdensome lacks merit. The interrogatory seeks

information that goes to the heart of this proceeding -- whether Titus, a convicted felon and Level 3 Sex Offender, has used or may use his amateur radio license to communicate with minors and engage them in illegal activities. Given the relevance of this interrogatory to the issues in this hearing, the Bureau submits that any burdens that may exist in answering it are clearly outweighed by the public interest in obtaining the information. There also is no basis to Titus' assertion that the Bureau interposed this particular interrogatory to harass him. Information about Titus' communications with minors is absolutely germane to the issues in this hearing proceeding and are reasonably calculated to lead to the discovery of admissible evidence.

Although Titus provides an answer this interrogatory, it is incomplete and evasive because it appears that Titus intends to supplement his answer only if he determines that any of his "friends" may have been under 18 years old when he communicated with them over the air. Such a narrow reading of the interrogatory is unacceptable and unreasonable. The interrogatory seeks information, to the extent Titus has such, regarding the identity of any "person" under the age of 18 with whom Titus has communicated on the air. It is not limited to individuals whom Titus' may characterize as "friends." If Titus maintains or maintained a log of persons with whom he has communicated, he should be required to refer to such log and make a good faith effort to fully, completely, and honestly answer the interrogatory. In addition, Titus indicates that it is very likely that he has communicated with minors over the air, yet he makes no effort to identify any of them. The Presiding Judge should require Titus to properly identify such individuals to the extent Titus is able, rather than casually evading the interrogatory.

INTERROGATORY NO. 13: This interrogatory seeks information about persons whom Titus intends to rely as a reference to his character in this hearing. Titus specifically objects to this particular interrogatory on the basis of each and every one of his General Objections, as described in response to Interrogatory No. 1, above. In addition, Titus argues that this interrogatory is premature because, if the Bureau understands Titus' argument correctly, the Bureau has not yet provided information to Titus about Titus' character.

The Bureau submits that Titus' objections as to this interrogatory are without merit. Titus does not explain how the attorney-client privilege or work product doctrine are invoked by an interrogatory which seeks information about persons upon whom Titus intends to rely as character references. If Titus has withheld information in answering this interrogatory based on a claim of privilege he should be required to specifically so state. Similarly, Titus does not attempt to explain how this interrogatory seeks information that could even arguably be characterized as confidential or sensitive. Certainly, if Titus intends to call witnesses at the hearing to testify as to his character, Bureau counsel must have an opportunity to depose them prior to trial and examine them at the hearing. Furthermore, Titus' claim that this interrogatory is unduly burdensome lacks merit and is wholly unsupported. There also is no basis to Titus' assertion that the interrogatory is premature because the Bureau has yet to provide information to Titus. It is unclear how or why Titus' ability to identify his character references in response to this interrogatory should somehow depend on information that the Bureau may have. The

Presiding Judge should require Titus to properly respond *to* this interrogatory so that the Bureau, which bears the burdens in this case, may arrange to contact and, if necessary, depose Titus' character witnesses in advance of the hearing.

INTERROGATORY NO. 14: This interrogatory seeks information about evidence upon which Titus intends to rely in demonstrating that he has been rehabilitated. Titus specifically objects to this particular interrogatory on the basis of each and every one of his General Objections, as described in response to Interrogatory No. 1, above. In addition, Titus argues that this interrogatory is premature because, if the Bureau again understands Titus' argument correctly, the Bureau has not yet provided information to Titus about Titus' character. Titus further claims that such information will require him to set forth "his full case" in his answer.

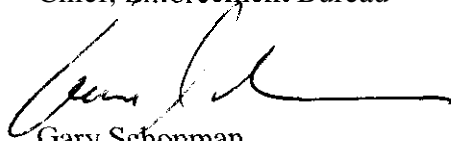
The Bureau submits that Titus' objections as to this interrogatory are without merit. Titus does not explain how the attorney-client privilege or work product doctrine are invoked by an interrogatory which seeks information about rehabilitation evidence upon which Titus intends *to* rely. If Titus has withheld information in answering this interrogatory based on a claim of privilege he should be required to specifically so state. Similarly, Titus does not attempt to explain how this interrogatory seeks information that could even arguably be characterized as confidential or sensitive. Certainly, if Titus intends to introduce evidence, particularly testimonial evidence, at the hearing in support of his position that he has been rehabilitated, Bureau counsel must have an opportunity to depose the witnesses prior to trial and examine them at the hearing. Furthermore, Titus'

claim that this interrogatory is unduly burdensome lacks merit and is wholly unsupported. There also is no basis to Titus' assertion that the interrogatory is premature because the Bureau has yet to provide information to Titus. It is unclear how or why Titus' ability to identify persons who will testify that he has been rehabilitated should somehow depend on information that the Bureau may have. There also is no basis for Titus' claim that an answer to this interrogatory will somehow require him to present his entire case before the trial. There should be no "surprise" witnesses at the hearing, and the Presiding Judge should require Titus to properly respond to this interrogatory so that the Bureau, which bears the burdens in this case, may arrange to contact and depose witnesses upon whom Titus intends to rely in support of his position that he has been rehabilitated.


The Presiding Judge should carefully note the lengths to which Titus has gone in his purported responsive tiling to avoid cooperating in the discovery phase of this hearing proceeding. While the Bureau bears the burdens in this hearing, Titus nonetheless has an obligation to cooperate and respond fully, completely and in good faith to the Bureau's

legitimate requests for information. Engaging in actions designed to frustrate the Bureau's efforts should not be tolerated

Respectfully submitted,
Kris Anne Monteith
Chief, Enforcement Bureau



Gary Schonman
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Investigations and Hearings Division



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April 17, 2007

**Enforcement Bureau's
First Interrogatories to David L. Titus**

MAR - 9 2007

Federal Communications Commission

Office of the Secretary

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	EB Docket No. 07-13
)	
DAVID L. TITUS)	FRN No. 0002074797
)	File No. EB-06-IH-5048
Amateur Radio Operator and Licensee of)	
Amateur Radio Station KB7ILD)	
To: David L. Titus		

ENFORCEMENT BUREAU'S FIRST INTEROGATORIES
TO
DAVID L. TITUS

1. The Enforcement Bureau ("Bureau"), pursuant to Sections 1.311 and 1.323 of the Commission's rules, 47 C.F.R. §§ 1.311 and 1.323, submits the following interrogatories to David L. Titus.

2. David L. Titus shall deliver his responses to the offices of the Investigations and Hearings Division, Enforcement Bureau, Suite 4-C330, 445 12th Street, S.W., Washington, DC 20554 (or at some other location that is mutually acceptable to the Bureau and David L. Titus) within 14 calendar days of the date of these interrogatories.

3. The obligation of David L. Titus to answer these interrogatories is continuing in nature. David L. Titus has an obligation to provide in the future any and all additional responsive information that may come to his attention subsequent to his answering these interrogatories but not initially disclosed at the time, date and place set forth herein or in any supplemental answers that he submits. In ~~this~~ regard, David L. Titus must supplement his initial and supplemental responses if he learns that, in some material

respect. the responses initially provided, or as supplemented, were incomplete or incorrect or if additional responsive information is acquired by or has become known to him after his initial or supplemental responses.

Definitions and Instructions

a. As used herein, the term "David L. Titus" means David L. Titus, the Amateur Radio Operator and Licensee of Amateur Radio Station KB7ILD, FRN No. 0002074797.

b. The term "FCC" or "Commission" means Federal Communications Commission and includes any and all Bureaus, Divisions, Branches, and offices thereof.

c. The terms "relate to" and "relating to" mean constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or in any way is pertinent to the specified subject, including documents concerning the preparation of the documents.

d. The term "and" also means "or" and the term "or" also means "and."

e. The term "each" also means "every" and the term "every" also means "each."

f. The term "all" also means "any" and the term "any" also means "all."

g. The term "identify" when used with reference to a person or persons, means to state his or her full name; last known business and residence addresses; and last known business and residence telephone numbers.

h. The term "document" means the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, videotaped, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any book,

pamphlet: periodical, contract, agreement, correspondence, letter, facsimile, e-mail, file, invoice. memorandum, note. telegram: report, record, handwritten note, working paper, routing slip. chart, graph; photograph, paper, index, map: tabulation, manual, guide, outline: script, abstract. history, calendar, diary, agenda, minutes, marketing plan, research paper: preliminary drafts. or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form) in the possession. custody, or control of David L. Titus.

i. With regard to each answer; identify the person(s) or document(s) relied upon by David L. Titus in determining the substance of the answer.

Interrogatories

1. Describe fully the educational background of David L. Titus.
2. Identify each and every place of employment of David L. Titus since January 1, 1997. **As** to each such place of employment:
 - a. Specify the dates of employment of David L. Titus;
 - b. Identify the titles held, if any, by David L. Titus;
 - c. Describe fully the nature of the responsibilities of David L. Titus; and
 - d. Identify the direct supervisor of David L. Titus.
3. Identify each and every business and/or business venture in which David L. Titus has been a principal since January 1, 1997. **As** to each such business and/or business venture:
 - a. Describe fully the nature of the business and/or business venture;

- b. Describe fully the nature and extent of the role of David L. Titus in the business and/or business venture; and
 - c. Specify the dates in which David L. Titus was a principal in the business and/or business venture.
- 4. State whether David L. Titus has ever been convicted of a felony in any federal, state or local court. If so, as to each such felony conviction:
 - a. Describe fully the nature of the offense;
 - b. Specify the date of conviction and case number;
 - c. Identify the court in which the conviction occurred;
 - d. Describe fully the sentence; if any, that was handed down; and
 - e. State whether David L. Titus has or has had any continuing obligations or restrictions of any kind whatsoever with respect to such conviction and, if so, describe fully.
 - f. State whether David L. Titus has, at any time and in any manner, disclosed such felony conviction to the Commission. If so, describe fully the nature and date of such disclosure. If not, describe fully why not.
- 5. Specify the date when David L. Titus first became a Commission licensee.
- 6. Identify by call sign and service each and every FCC license that David L. Titus has ever held or has had any interest of any kind whatsoever.
- 7. Identify by call sign and service all FCC licenses that David L. Titus currently holds or in which he has an interest of any kind whatsoever.
- 8. State whether David L. Titus has ever been found to have engaged in any FCC-related misconduct. If so, describe fully.

9. State whether David L. Titus is or ever has been a member of, or otherwise involved in any manner whatsoever in, any amateur radio club and/or organization. If so, as to each such club and/or organization:
- Identify the such club and/or organization;
 - Specify the dates of membership and/or involvement in the club and/or organization;
 - Describe fully the nature and extent of such membership and/or involvement in such club and/or organization; and
 - Identify the president of such club and/or organization at the time of David L. Titus' membership and/or involvement.
10. Describe fully the nature and extent of the on-air activities in the amateur radio service, if any, in which David L. Titus has engaged since January 1, 1997.
11. State whether David L. Titus has ever used any aliases in connection with on-air activities in the amateur radio service in which he engaged. If so, as to each such instance in which David L. Titus used an alias on-air:
- Describe the alias;
 - State when it was used; and
 - Explain fully why David L. Titus used such alias.
12. State whether David L. Titus has, since January 1, 1997, knowingly engaged in any on-air any dialogue in the amateur radio service with a person under the age of 18 years old. If so, as to each such instance:
- Specify the date of such on-air dialogue;
 - Describe the nature and extent of such on-air dialogue; and

c. Identify the person under the age of 18 years old and provide his or her call sign.

13. Identify each and every person upon whom David L. Titus intends to rely, if any, as a reference in support of his character in the hearing proceeding in EB Docket No. 07-13.

14. State whether David L. Titus intends to demonstrate in the hearing proceeding in EB Docket No. 07-13 that he has been rehabilitated and if, so, describe fully the evidence upon which he intends to rely in making such demonstration

Respectfully submitted,
Kris Anne Monteith
Chief, Enforcement Bureau



Gary Schonman
Special Counsel, Investigations and Hearings Division

Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, D.C. 20554
(202) 418-1420


March 9, 2007

CERTIFICATE OF SERVICE

Alicia McCannon, an Industry Analyst in the Enforcement Bureau's Investigations and Hearings Division. certifies that she has, on this 9th day of March 2007. sent by first class United States mail copies of the foregoing "Enforcement Bureau's First Interrogatories to David L. Titus" to:

David L. Titus
1529 Boylston Avenue. #203
Seattle, WA 98122

Chief Administrative Law Judge Richard L. Sippel*
Federal Communications Commission
445 12th Street, S.W., Suite 1-C768
Washington, D.C. 20054

 for _____
Alicia McCannon

* Hand-Delivered

David L. Titus'
Specific Objections and Answers
to the Bureau's First Interrogatories

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6 **BEFORE THE**
7 **FEDERAL COMMUNICATIONS COMMISSION**
8 **WASHINGTON, D.C. 20554**

9 In Re the Matter of:

10 **DAVID L. TITUS,**

11 Amateur Radio Operator and Licensee of
12 Amateur Radio Station **KB7ILD**.

EB Docket No. **07-13**

FRN No. 0002074797

File No. EB-06-M-5048

**DAVID TITUS' SPECIFIC OBJECTIONS
AND ANSWERS TO THE BUREAU'S FIRST
INTERROGATORIES**

13 David Titus responds to the Enforcement Bureau's First Interrogatories dated
14 is follows:

15 **GENERAL OBJECTIONS**

16
17 1. Mr. Titus objects to the definition of the terms "relate to" and "relating to"
18 contained in the Instructions insofar as they purport to mean that these interrogatories seek
19 information which is protected from discovery under the attorney-client privilege and work
20 product doctrine, as well as information which is not reasonably calculated to lead to the
21 discovery of relevant or admissible evidence.

22
23 2. Mr. Titus objects to these interrogatories insofar as they request information which
24 is confidential **and** sensitive. Mr. Titus offers to enter into a mutually agreed upon
25 protective order that will allow such information to be produced in a manner which

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pects their confidentiality.

• **Mr.** Titus objects to these interrogatories insofar **as** they are unduly burdensome and designed merely to harass or burden him into spending **undue time and** expense in answering them. It appears that the Enforcement Bureau is using its discovery as a mechanism to shift the burden of proof it bears onto Mr. Titus, and to buttress after the fact its conclusory and thinly-supported **request** for **an** order show cause.

• Each and every one of Mr. Titus' answers will be made without waiver of, and subject to, these General Objections, and as if these General Objections has been restated herein.

ANSWERS TO INTERROGATORIES

Answer to Interrogatory No. 1:

- Mr. Titus passed the GED at age 16. Mr. Titus has taken some classes at Washington-area community colleges. During times of incarceration Mr. Titus has taken college level classes in the course of **sex** offender treatment.
- Mr. Titus also took a summer course in electronics at a local vocational school during his teen years. Mr. Titus has also taken other computer-related **classes** through his past employers. Mr. Titus has self-taught other skills and abilities.

Answer to Interrogatory No. 2:

Mr. Titus objects to this interrogatory as unduly burdensome, harassing and not reasonably calculated to lead to the discovery of relevant or admissible evidence. **Mr.** Titus' work history has no reasonable relationship to **the** FCC's claims against him

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1 unless he chooses to bring forth employment related witnesses to rebut the FCC's
2 allegations. Revelation to employers, particularly current ones, about the reasons for the
3 FCC's actions against him also jeopardizes Mr. Titus' continued employment in
4 Washington, which is an employment-at-will state. Without waiving his objections, Mr.
5 Titus further answers as follows:

- 6 • Before **January** 1, 1997, until approximately October 2002 – Mr. Titus worked at
7 Microsoft (both **as** a contract-type employee & full-time employee). Mr. Titus
8 held the positions of Administrative/Group Assistant (first positions), **Software**
9 Test Engineer & Lab Manager. Responsibilities were mostly managing computer
10 labs, maintaining lab hardware and equipment, testing software, writing scripts
11 and troubleshooting hardware, software and network related issues. Mr. Titus
12 had various supervisors, and will supplement this answer with the names of those
13 supervisors he is able to recall to revealing their names and positions does not
14 conflict with company policies.
15
16 • November 2000 to August 2002 – Unemployed.
17
18 • August 2004 until approximately August 2006 – Mr. Titus was the Office
19 Manager to Dr. William C. Kenner, DDS, 1800 SW 152nd, Seattle, WA 98166,
20 telephone (206)248-1339. Duties include, but were not limited to, managing the
21 office practice environment.
22
23 • August 2006 to present . See objection.
24

25 ///

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1 **Answer to Interrogatory No. 3:**

2 None

3 **Answer to Interrogatory No. 4:**

- 4
- 5 • Mr. Titus was convicted of Communication With a Minor For Immoral Purposes
 - 6 in Benton County, Kennewick, Washington on March 12, 1993, under Case No.
 - 7 93-1-00035-2. Mr. Titus was sentenced to 22-29 months (not years as the
 - 8 “Judgment and Sentence” order incorrectly states). After 25 months
 - 9 confinement, Mr. Titus completed 24 months of probation as required
 - 10 • Mr. Titus does not have any current court-ordered obligations. Mr. Titus does
 - 11 have to register as a “sex offender” as required by law.
 - 12 • Mr. Titus has not (before the Enforcement Bureau’s “Order to Show Cause”)
 - 13 disclosed his conviction/adjudications to *the* FCC. Mr. Titus was not aware that
 - 14 he had ~~an~~ obligation to disclose his conviction/adjudications to the FCC.
 - 15 • Prior to Mr. Titus’ felony conviction as ~~an~~ adult (when Mr. Titus was 18 years
 - 16 old), Mr. Titus had two juvenile court adjudications in Benton County.
 - 17 Washington. Mr. Titus has no documents in his possession regarding such
 - 18 adjudications.
 - 19
 - 20

21 **Answer to Interrogatory No. 5:**

22 Mr. Titus became a FCC commission licensee on or around August 14, 1989. The FCC

23 should have this information on record

24

25 **Answer to Interrogatory No. 6:**

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- Mr. Titus currently holds one FCC license: Amateur Radio license KB7ILD.
- Mr. Titus has previously held a GMRS license but does not recall the call sign.

The FCC should have this information on record.

Answer to Interrogatory No. 7:

See Answer to Interrogatory No. 6.

Answer to Interrogatory No. 8:

No.

Answer to Interrogatory No. 9:

- Mr. Titus is a current ARRL member since approximately August 1989 (and has been active with the ARRL's ARES program in the past).
- Mr. Titus started (with Todd Buiten, WK7L) MicroHAMS amateur radio club and was Vice President from the time in which Mr. Titus created the club until the time in which Mr. Titus left the club in October 2002. Todd Buiten WK7L was President. Mr. Titus does not recall the exact date in which the club was formed.
- Mr. Titus is a current & active member of the NWAPRS group. David Dobbins, K7GPS, is the group leader. Mr. Titus has been with NWAPRS group for many years and does not recall the date in which he became an active participant of the group
- Mr. Titus may have been involved in other amateur radio clubs and/or organizations other than in which have been stated but does not recall any of the

specifics at this time.

Answer to Interrogatory **No. 10:**

Mr. Titus objects to this interrogatory as unduly burdensome in terms of the degree of detail it expects and the research it purports to require Mr. Titus to undertake. Without waiving his objections, Mr. Titus further answers in a reasonable degree of detail as follows:

- Mr. Titus has been involved in most aspects on the amateur radio hobby including but not limited to HF/VHF/UHF voice and digital-mode communications to include: **APRS**, contesting, CW, **QRP**, and “Direction Finding” to name a few.
- Mr. Titus provides an open amateur radio repeater system/service to local and visiting amateur radio operators for fun, fellowship, technical advancement, volunteer communications for events, emergency communications and furtherance of the amateur radio hobby to name a few.
- Mr. Titus has an understanding with a local government agency for its use of Mr. Titus’ repeater system as a backup communications system in time of need and/or emergency.

Answer to Interrogatory **No. 11:**

None.

Answer to Interrogatory **No. 12:**

Mr. Titus objects to this interrogatory as unduly burdensome, harassing, an intrusion

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1 into **Mr. Titus'** right to privacy and not reasonably calculated to lead to the discovery of
2 relevant or admissible evidence. Without waiving his objections, **Mr. Titus** further
3 answers as follows:

- 4 • Mr. Titus has communicated with hundreds of people on-the-air. Within that
5 sphere, Mr. Titus would be surprised if he had not spoken to any other amateur
6 radio operators who may have been under the age of **18** since 1997. Mr. Titus
7 will supplement this answer upon determining if there are any of Mr. Titus'
8 friends who are now adults and were under **18** when they met on-the-air.
9

10 **Answer to Interrogatory No. 13:**

11 *Mr. Titus* objects to this interrogatory as premature. This case has just been initiated,
12 and the Enforcement Bureau has not provided any information regarding the basis upon
13 which they intend to attack **Mr. Titus'** character. Without waiving his objections, Mr
14 Titus further answers as follows:

15
16 Mr. Titus will supplement this answer and provide the names and address of any
17 persons in which Mr. Titus intends to rely on as a reference in support of his
18 character once those persons have been identified
19

20 **Answer to Interrogatory No. 14:**

21 Mr. Titus objects to this interrogatory as premature. This case has just been initiated,
22 and the Enforcement Bureau has not provided any information regarding the basis upon
23 which they intend to attack **Mr. Titus'** character. **Mr. Titus** further objects to this
24 interrogatory as unduly burdensome insofar as it purports to require him to set forth his
25

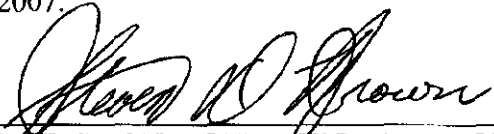
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full case in this answer. Without waiving his objections, Mr. Titus further answers as follows:

Mr. Titus **has** been rehabilitated. Mr. Titus has no criminal convictions in the last 14 years. Mr. Titus' criminal-related **issues** were **in** his teen years and younger only.

DATED this 3rd day of April, 2007.


DAVID S. MARSHALL, WSBA No. 11716
STEVEN D. BROWN, WSBA #11759
Attorneys for David L. Titus

I, DAVID L. TITUS, certify that the foregoing interrogatory answers are true and correct.


DAVID L. TITUS

4/3/07
Date

Signed at Seattle, Washington.

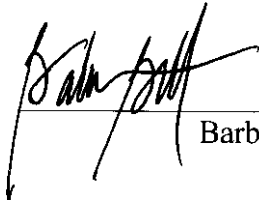
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CERTIFICATE OF SERVICE

Barbara Britt, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 17th day of April 2007, sent by first class United States mail copies of the foregoing "Enforcement Bureau's Motion to Compel Answers to Interrogatories" to:

Steven D. Brown, **Esq.**
Law Office of David S. Marshall
1001 4th Avenue, 44th Floor
Seattle, WA 98154
Counsel to David L. Titus

Chief Administrative Law Judge Richard L. Sippel*
Federal Communications Commission
445 12th Street, S.W., Suite 1-C768
Washington, D.C. 20054



Barbara Britt

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